

Service Date: September 20, 2006

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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In the Matter of the Pass Through of Fees	)	UTILITY DIVISION
Levied on Regulated Companies for Funding )		DOCKET NO. D2006.9.133
the Montana Consumer Counsel.	)	ORDER NO. 6769

**FINAL ORDER**

1. Section 69-1-223, MCA, provides for funding the office of the Montana Consumer Counsel (MCC) by a tax (fee) on all regulated companies (as defined at § 69-1-201(3), MCA). The Department of Revenue has notified the Public Service Commission (PSC) of the tax rate which will be effective for the period beginning October 1, 2006 and ending September 30, 2007.

Section 69-1-224(4), MCA, requires that the PSC "by separate order authorize each regulated company to fully recover in its rates and charges, on an annual basis, the fees levied . . . ." This Order is being issued pursuant to that requirement.

2. The applicable rate for the tax period beginning October 1, 2006 is .06 percent (.0006). In order to permit full recovery of the MCC fees, this Order permits all regulated companies affected by this Order to reflect this tax rate in their revenue requirement as of October 1, 2006.<sup>1</sup> All rate regulated companies that pay the MCC fee may file tariffs reflecting the .06 percent tax rate.

3. The tax rate for the period October 1, 2005 through September 30, 2006 is .07 percent (.0007). Companies collecting at the .07 percent rate, or a rate higher than .06 percent, will be required to change their rates. Companies that are recovering the MCC tax at the .07 percent rate (or greater than .07 percent) must file new tariffs by October 1, 2006; or, in the

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<sup>1</sup> "[R]egulated companies affected by this Order" means those companies that are rate regulated by the PSC. Other companies regulated "in any manner" (§ 69-1-401(2), MCA) by the PSC are subject to the MCC tax but do not need special authorization to recover the tax in their prices.

alternative, these companies must accrue the over collection beginning October 1, 2006 and include it with a later tariff change. Such tariff change may not occur later than October 1, 2007.

4. Except for regulated companies that are currently recovering the MCC tax at a rate higher than .06 percent, the filing of tariffs reflecting the rate authorized by this Order is permissive, not mandatory. Regulated companies may choose not to recover the MCC tax, or may choose to continue recovering less than the current tax, in cases where the amount to be recovered would not justify submitting new tariffs. A regulated company may choose to defer implementing tariffs reflecting the tax until a later date (e.g., to coincide with other tariff changes), consistent with paragraph 3, above. It should be noted, however, that the revenue requirement may not be accumulated unless authorized by the PSC.

5. All regulated services of a rate regulated company must absorb the rate increase proportionately to that service's contribution to the total gross operating revenue generated by the regulated activities within this state. As limited exceptions to this general approach, however, the floors in "flexible band" tariffs need not be exceeded and special market-based rates need not be increased.

#### CONCLUSIONS OF LAW

1. Pursuant to various parts of Title 69, MCA, the Montana Public Service Commission has jurisdiction over regulated companies as defined at § 69-1-201, MCA.

2. The Public Service Commission is required by Section 69-1-224(4), MCA, to allow immediate recovery of the regulated utility fee by each affected company in its rates and charges on an annual basis.

3. This Order does not apply to companies not rate regulated by the PSC.

4. The decreased revenue requirement approved herein is a reasonable means of complying with §§ 69-1-223 et seq., MCA.

#### ORDER

Regulated companies as defined in § 69-1-201, MCA, are authorized to file tariffs

reflecting an MCC tax rate of .06 percent effective October 1, 2006 through September 30, 2007, consistent with the Findings of Fact contained in this Order. This authorization is permissive, not mandatory and effective dates may, at the companies' discretion, be after October 1, 2006.

DONE AND DATED this 19th day of September, 2006 by a vote of 5 to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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GREG JERGESON, Chairman

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BRAD MOLNAR, Vice Chairman

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DOUG MOOD, Commissioner

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ROBERT H. RANEY, Commissioner

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THOMAS J. SCHNEIDER, Commissioner

ATTEST:

Connie Jones  
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision.  
A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.

